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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,778	02/08/2002	Robert T. Woodburn III	RTW-2	2026

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THE LAW OFFICE OF JILL L. WOODBURN, L.L.C.
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EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT PAPER NUMBER

3743

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Amendment

This Office Action is in response to applicant's amendment filed on December 9, 2004. Claims 1 and 13 have been amended. Claims 11, 12, and 19-24 have been cancelled. Applicant's comments pertaining to the Milligan reference are acknowledged. The claims, as amended, however, have been carefully considered and are rejected in view of newly discovered references for the reasons below.

Claim Objections

Claims 4 and 5 are objected to because currently these claims depend from themselves, respectively. It appears that applicant might have intended for them to depend from claim 2. For purposes of this Office Action, these claims are treated as if they had depended from claim 2.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention. Evidence that claim 18 fails to correspond in scope with that which applicant(s) regard as the invention can be found in the reply filed February 8, 2002. In that paper, applicant has disclosed in the specification on page 4 line 32-34 to page 5 lines 1-2 stating the attachment portion (2) of fixation member (14) may be coupled to the mouthpiece member (12) using any number of commercially available adhesives

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or with heat welding, and this statement indicates that the invention is different from what is defined in the claim(s) because no where in the specification did applicant disclose the mouthpiece member and the mask are coupled together with an adhesive.

Accordingly, claim 18 is further rejected as best can be understood and interpreted below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Milligan (U.S. Patent No. 5,267,353). Milligan discloses in Figures 8-10 a protective face guard (80) comprising a mouthpad (120) to the face guard (80). The face guard (80) and the mouthpad (120) are coupled together with a mouth plastic sheet (122) and clamp brackets (124). With regards to claim 18, Milligan discloses mouthpad (120) is coupled to the face guard (80) via adhesive to the mouth plastic sheet (122) and secured by clamp brackets (124).

Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Milligan (U.S. Patent No. 5,267,353). Milligan discloses in Figures 8-10 a protective face guard (80) comprising a face guard (80) and a mouthpad (120). The mouth plastic sheet (122) coupled to the mouthpad (120) via adhesive and clamp brackets (124) formed to couple the faceguard (80) to the mouth plastic sheet (122) so that the mouthpad (120) is in a fixed position relative to the mask.

The introductory statement of intended use and all other functional statements have been carefully considered but deemed not to impose any structural limitations on the claims distinguished over the Milligan device in the sense of 35 USC 102 which is capable of being used as set forth in these claims.

Allowable Subject Matter

Claims 2-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-15 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

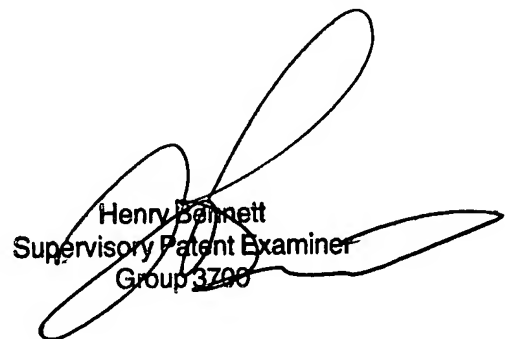
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Camtu Nguyen
December 30, 2004



Henry Bennett
Supervisory Patent Examiner
Group 3700